

TITLE 13. ENVIRONMENT
IC 13-26. REGIONAL WATER, SEWAGE,
AND SOLID WASTE DISTRICTS

IC 13-26-1. PURPOSES OF REGIONAL DISTRICTS

IC 13-26-1-1 ----- Purposes of regional districts: purposes listed

Any area may be established as a regional water, sewage, or solid waste district under this article for one (1) or more of the following purposes:

- (1) To provide a water supply for domestic, industrial, and public use to users inside and outside the district.
- (2) To provide for the collection, treatment, and disposal of sewage inside and outside the district.
- (3) To provide for the collection, treatment, and disposal of solid waste and refuse inside and outside the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-1-2 ----- Purposes of regional districts: petition to alter purposes or plan

(a) At any time after the creation of a district, the district, after motion by the district's board, may file a petition with the department requesting the approval of the department permitting the district to:

- (1) increase or add to the district's purposes or modify the district plan approved by the department; or
- (2) abandon or surrender all or part of a purpose or plan approved by the department.

(b) The department may:

- (1) approve;
- (2) modify and approve; or
- (3) reject;

a request received under this section.

[As added by: P.L.1-1996, §16.]

IC 13-26-2. ESTABLISHMENT OF REGIONAL DISTRICTS

IC 13-26-2-1 ----- Establishment of regional districts: filing of petition

The establishment of a regional district may be initiated only by a petition filed with the department. A copy of the petition shall also be filed not later than ten (10) days after the filing with the department in the office of the executive of each governmental entity having territory within the proposed district.

[As amended by: P.L.133-1997, §1.]

IC 13-26-2-2 ----- Establishment of regional districts: who may file

(a) The petition may be filed by any representative of one (1) or more eligible entities involved after being authorized by the fiscal body of the petitioning eligible entity or entities included in the plan of the proposed district,

(b) If the proposed district includes:

- (1) a state park or recreational area, forest land, or a reservoir; or
- (2) land owned, leased, or controlled by the department of natural resources;

the petition may be joined or filed by any representative of that department after having been authorized by the natural resources commission, with the approval of the executive of

the county containing the territory of the district.

[As amended by: P.L.133-1997, §2.]

IC 13-26-2-3 ----- Establishment of regional districts: requirements of petition

A petition to establish a district under this chapter must state the following:

- (1) The proposed name of the district.
- (2) The place in which the district's principal office is to be located.
- (3) The following information:
 - (A) The need for the proposed district.
 - (B) The purpose to be accomplished.
 - (C) How the district will be conducive to the public health, safety, convenience, or welfare, including a specific statement of how:
 - (i) water supply, for a water district;
 - (ii) sewage collection, disposal, and treatment, for a sewage district; or
 - (iii) solid waste disposal, recovery, or treatment, for a solid waste district; is currently being provided.
 - (D) Whether there is any outstanding indebtedness for the purpose proposed in the proposed district, including a statement as to how the current situation creates or adds to pollution or health hazards or impedes development in the area.
- (4) An accurate description of the territory to be included in the district, which does not have to be given by metes and bounds or by legal subdivisions. The territory does not have to be contiguous, but the territory must be so situated that the public health, safety, convenience, or welfare will be promoted by the establishment as a single district of the territory described.
- (5) The petitioner's recommendations on:
 - (A) the manner of selection;
 - (B) the number; and
 - (C) the term, not exceeding four (4) years; of the members of the board of trustees.
- (6) The plan for financing the cost of the operations of the district until the district is in receipt of revenue from the district's operations or proceeds from the sale of bonds.
- (7) Estimates of the following:
 - (A) The costs of accomplishing the purpose of the district.
 - (B) The costs of operating and maintaining the works.
 - (C) The sources of the funding of these costs.
 - (D) The rates and charges that will be required.

[As added by: P.L.1-1996, §16.]

IC 13-26-2-4 ----- Establishment of regional districts: IDEM to determine whether the petition complies

Upon the filing of a petition to establish a district under this chapter, the department shall determine whether the petition complies with the requirements of this chapter as to form and content. The department:

- (1) may not declare a petition void because of alleged defects; and
- (2) may, in subsequent proceedings at any time, permit the petition to be amended in form or substance.

[As added by: P.L.1-1996, §16.]

IC 13-26-2-5 ----- Establishment of regional districts: appointment of hearing officer

Upon the determination of the department that a sufficient petition has been filed in accordance with this chapter, the commissioner shall appoint a hearing officer, who does not have to be a state employee. If the hearing officer is not a full-time state employee, the hearing officer is entitled to be paid reasonable:

- (1) expenses; and
- (2) per diem;

for each day or part of a day in actual attendance at a meeting or hearing or in performance of duties. The reasonable per diem and expenses are valid claims against the department.

[As added by: P.L.1-1996, §16.]

IC 13-26-2-6 ----- Establishment of regional districts: notice of hearing

(a) Except as provided in section 9 of this chapter, the hearing officer shall fix a time and place inside or within ten (10) miles of the proposed district for the hearing on any matter for which a hearing is authorized under this chapter.

(b) The hearing officer shall make a reasonable effort to provide notice of the hearing as follows:

- (1) By publication of notice two (2) times each week for two (2) consecutive weeks in at least two (2) newspapers of general circulation in each of the counties, in whole or in part, in the district. The publication of notice must, at a minimum, include a legal notice and a prominently displayed three (3) inches by five (5) inches advertisement.
- (2) By certified mail, return receipt requested, mailed at least two (2) weeks before the hearing to the following:
 - (A) The fiscal and executive bodies of each county with territory in the proposed district.
 - (B) The executive of all other eligible entities with territory in the proposed district.
 - (C) The state and any of its agencies owning, controlling, or leasing land within the proposed district, excluding highways and public thoroughfares owned or controlled by the Indiana department of transportation.
 - (D) Each sewage disposal company holding a certificate of territorial authority under IC 8-1-2-89 respecting territory in the proposed district.
- (3) By making a reasonable effort to provide notice of the hearing by regular United States mail, postage prepaid, mailed at least two (2) weeks before the hearing to each freeholder within the proposed district.
- (4) By including the date on which the hearing is to be held and a brief description of:
 - (A) the subject of the petition, including a description of the general boundaries of the area to be included in the proposed district; and
 - (B) the locations where copies of the petition are available for viewing.

[As amended by: P.L.1-2001, §22.]

IC 13-26-2-7 ----- Establishment of regional districts: standing to file objection and testify on petition

A person or an eligible entity that resides or lies in or partially resides or lies in an area affected by the establishment of a district:

- (1) may, on or before the date set for the cause to be heard, file a written objection to the granting of the requests made in the petition; and
- (2) may be heard at the hearing.

[As added by: P.L.1-1996, §16.]

IC 13-26-2-8 ----- Establishment of regional districts: hearing officer findings and recommendations

(a) After the hearing on the petition for the establishment of the proposed district, which may be adjourned periodically, the hearing officer shall make findings on the petition and other relevant facts and recommendations as to whether:

- (1) the petition should be:
 - (A) approved;
 - (B) approved with modifications; or
 - (C) denied; and
- (2) a district should be established.

(b) If the recommendation is in the affirmative, the recommendation must also include recommendations on:

- (1) the manner of the selection or appointment;
- (2) the number; and
- (3) the terms;

of the board.

(c) The description of the territory to be included in a district may not include territory in a municipality that has, by ordinance or resolution filed with the department, exercised the option not to be included in the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-2-9 ----- Establishment of regional districts: IDNR petition; waiver of notice

(a) If the department of natural resources has filed a petition, the commissioner may waive the requirement for notice and hearing provided in section 6 of this chapter.

(b) If the commissioner waives the notice and hearing requirement, the hearing officer shall give written notice by certified mail under section 6 of this chapter. Each recipient of notice has thirty (30) days from the mailing of the notice within which to file objections or material with the hearing officer.

(c) The hearing officer shall then proceed to make findings and recommendations as provided in section 8 of this chapter, based upon any material:

- (1) received by the hearing officer; or
- (2) obtained at the hearing officer's discretion through the hearing officer's own investigation.

[As added by: P.L.1-1996, §16.]

IC 13-26-2-10 ----- Establishment of regional districts: commissioner's determination and order

(a) If the commissioner determines that the findings show that the establishment of a recommended district:

- (1) complies with the conditions of this chapter for establishment of a district; and
- (2) appears capable of accomplishing the purpose or purposes in an economically feasible manner;

the commissioner shall issue an order directing that the district be established as an independent municipal corporation with a name and for the purposes designated in the order.

(b) An order must do the following:

- (1) Provide for the selection or appointment and terms of offices, not to exceed four (4) years, of the board.
- (2) Provide requirements for sufficient bond for all officers, trustees, or employees having power to dispense money of the district.

- (3) If an eligible entity with territory in the district has a public water or solid waste sewer system, contain provisions protecting the investments of the entities and protecting the rights of the holders of bonds or other obligations issued to provide money for the system.
- (4) Direct the district to file a detailed plan for the initial project of the district not later than nine (9) months after the date of the preliminary order or within a further time that the department from time to time orders.

[As added by: P.L.1-1996, §16.]

IC 13-26-2-11 ----- Establishment of regional districts: review of order

An order for the establishment of a district is subject to review as provided in IC 4-21.5-5.

[As added by: P.L.1-1996, §16.]

IC 13-26-3. DISTRICTS ESTABLISHED UNDER PRIOR LAW

IC 13-26-3-1 ----- Districts established under prior law: chapter applicable to certain court ordered district

(a) A district established in accordance with IC 19-3-1 (before its repeal) by an order of the court before February 17, 1972, as a special district for any purpose provided in:

- (1) IC 13-3-2 (before its repeal); or
- (2) this article;

is considered to be a district under this article.

(b) Orders of the court and acts of the board of directors are valid if permitted by this article. The district shall function as a district the same as if the district were established under this article.

[As added by: P.L.1-1996, §16.]

IC 13-26-4. BOARD OF TRUSTEES OF REGIONAL DISTRICTS

IC 13-26-4-1 ----- Board of trustees of regional districts: membership

The board of trustees of a district is the governing body of the district. A board may consist of:

- (1) three (3);
- (2) five (5);
- (3) seven (7); or
- (4) nine (9);

trustees.

[As added by: P.L.1-1996, §16.]

IC 13-26-4-2 ----- Board of trustees of regional districts: election of board

An order establishing a district may provide for the board to be elected by the voters in the district from districts or wards or from the district at large. Elections and provisions for filling vacancies must be in accordance with IC 3, with the commissioner or the commissioner's designees performing the functions of the election officials.

[As added by: P.L.1-1996, §16.]

IC 13-26-4-3 ----- Board of trustees of regional districts: appointment of board

Instead of electing the board, an order establishing a district may provide for appointments to the board by the elected executive or legislative officers of the eligible entities having territory in the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-4-4 ----- Board of trustees of regional districts: provision that governor may appoint trustees

If:

- (1) a district will include territory in more than one (1) county;
- (2) a county executive has filed a petition for a district including territory owned, leased, or controlled by the department of natural resources; or
- (3) the department of natural resources has filed a petition;

the order establishing the district may provide that the governor appoints any number of trustees, but less than one-half (1/2) of the total.

[As added by: P.L.1-1996, §16.]

IC 13-26-4-5 ----- Board of trustees of regional districts: municipal appointments

If a plan also contemplates that sewage treatment for the district will be provided in cooperation with a municipality, the order must provide that:

- (1) at least one (1) trustee shall be appointed by the executive of the municipality; and
- (2) at least:
 - (A) one (1) trustee shall be appointed by the fiscal body; and
 - (B) one (1) trustee shall be appointed by the executive;
 of the county having the largest amount of territory in the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-4-6 ----- Board of trustees of regional districts: residence of trustee

An appointed trustee does not have to be a resident of the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-4-7 ----- Board of trustees of regional districts: per diem and travel

(a) The board of a district may provide for the payment of not more than fifty dollars (\$50) per day to members of the board for each day or major part of a day devoted to the work of the district.

(b) Members of the board are entitled to receive an amount for travel expenses equal to the amount paid to state employees for expenses incurred in the performance of their duties.

(c) Payments made to board members under subsections (a) and (b) shall be made from the general fund of the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-5. POWERS AND DUTIES OF REGIONAL DISTRICTS**IC 13-26-5-1 ----- Powers and duties of regional districts: authority**

Upon:

- (1) the declaration of the commissioner organizing a district;
- (2) the qualification of the board; and
- (3) the election of a president, a treasurer, and a secretary;

the district may exercise in the district's own name, as a municipal corporation, all the rights, powers, and duties conferred upon the district by this article.

[As added by: P.L.1-1996, §16.]

IC 13-26-5-2 ----- Powers and duties of regional districts: powers

A district may do the following:

- (1) Sue or be sued.

- (2) Make contracts in the exercise of the rights, powers, and duties conferred upon the district.
- (3) Adopt and alter a seal and use the seal by causing the seal to be impressed, affixed, reproduced, or otherwise used. However, the failure to affix a seal does not affect the validity of an instrument.
- (4) Adopt, amend, and repeal the following:
 - (A) Bylaws for the administration of the district's affairs.
 - (B) Rules and regulations for the following:
 - (i) The control of the administration and operation of the district's service and facilities.
 - (ii) The exercise of all of the district's rights of ownership.
- (5) Construct, acquire, lease, operate, or manage works and obtain rights, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property, whether real, personal, or mixed, of a person or an eligible entity.
- (6) Assume in whole or in part any liability or obligation of:
 - (A) a person;
 - (B) a nonprofit water, sewage, or solid waste project system; or
 - (C) an eligible entity;including a pledge of part or all of the net revenues of a works to the debt service on outstanding bonds of an entity in whole or in part in the district and including a right on the part of the district to indemnify and protect a contracting party from loss or liability by reason of the failure of the district to perform an agreement assumed by the district or to act or discharge an obligation.
- (7) Fix, alter, charge, and collect reasonable rates and other charges in the area served by the district's facilities to every person whose premises are, whether directly or indirectly, supplied with water or provided with sewage or solid waste services by the facilities for the purpose of providing for the following:
 - (A) The payment of the expenses of the district.
 - (B) The construction, acquisition, improvement, extension, repair, maintenance, and operation of the district's facilities and properties.
 - (C) The payment of principal or interest on the district's obligations.
 - (D) To fulfill the terms of agreements made with:
 - (i) the purchasers or holders of any obligations; or
 - (ii) a person or an eligible entity.
- (8) Except as provided in section 2.5 of this chapter, require connection to the district's sewer system of property producing sewage or similar waste and require the discontinuance of use of privies, cesspools, septic tanks, and similar structures if:
 - (A) there is an available sanitary sewer within three hundred (300) feet of the property line; and
 - (B) the district has given written notice by certified mail to the property owner at the address of the property at least ninety (90) days before a date for connection to be stated in the notice.
- (9) Provide by ordinance for reasonable penalties for failure to connect and also apply to the circuit or superior court of the county in which the property is located for an order to force connection, with the cost of the action, including reasonable attorney's fees of the district, to be assessed by the court against the property owner in the action.
- (10) Refuse the services of the district's facilities if the rates or other charges are not paid by the user.
- (11) Control and supervise all property, works, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property rights and interests conveyed, delivered, transferred, or assigned to the district.

- (12) Construct, acquire by purchase or otherwise, operate, lease, preserve, and maintain works considered necessary to accomplish the purposes of the district's establishment within or outside the district and enter into contracts for the operation of works owned, leased, or held by another entity, whether public or private.
- (13) Hold, encumber, control, acquire by donation, purchase, or condemnation, construct, own, lease as lessee or lessor, use, and sell interests in real and personal property or franchises within or outside the district for:
 - (A) the location or protection of works;
 - (B) the relocation of buildings, structures, and improvements situated on land required by the district or for any other necessary purpose; or
 - (C) obtaining or storing material to be used in constructing and maintaining the works.
- (14) Upon consent of two-thirds (2/3) of the members of the board, merge or combine with another district into a single district on terms so that the surviving district:
 - (A) is possessed of all rights, franchises, and authority of the constituent districts; and
 - (B) is subject to all the liabilities, obligations, and duties of each of the constituent districts, with all rights of creditors of the constituent districts being preserved unimpaired.
- (15) Provide by agreement with another eligible entity for the joint construction of works the district is authorized to construct if the construction is for the district's own benefit and that of the other entity. For this purpose the cooperating entities may jointly appropriate land either within or outside their respective borders if all subsequent proceedings, actions, powers, liabilities, rights, and duties are those set forth by statute.
- (16) Enter into contracts with a person, an eligible entity, the state, or the United States to provide services to the contracting party for any of the following:
 - (A) The distribution or purification of water.
 - (B) The collection or treatment of sanitary sewage.
 - (C) The collection, disposal, or recovery of solid waste.
- (17) Make provision for, contract for, or sell the district's byproducts or waste.
- (18) Exercise the power of eminent domain.
- (19) Remove or change the location of a fence, building, railroad, canal, or other structure or improvement located within or outside the district. If:
 - (A) it is not feasible or economical to move the building, structure, or improvement situated in or upon land acquired; and
 - (B) the cost is determined by the board to be less than that of purchase or condemnation;the district may acquire land and construct, acquire, or install buildings, structures, or improvements similar in purpose to be exchanged for the buildings, structures, or improvements under contracts entered into between the owner and the district.
- (20) Employ consulting engineers, superintendents, managers, and other engineering, construction, and accounting experts, attorneys, bond counsel, employees, and agents that are necessary for the accomplishment of the district's purpose and fix their compensation.
- (21) Procure insurance against loss to the district by reason of damages to the district's properties, works, or improvements resulting from fire, theft, accident, or other casualty or because of the liability of the district for damages to persons or property occurring in the operations of the district's works and improvements or the conduct of the district's activities.

- (22) Exercise the powers of the district without obtaining the consent of other eligible entities. However, the district shall:
 - (A) restore or repair all public or private property damaged in carrying out the powers of the district and place the property in the property's original condition as nearly as practicable; or
 - (B) pay adequate compensation for the property.
- (23) Dispose of, by public or private sale or lease, real or personal property determined by the board to be no longer necessary or needed for the operation or purposes of the district.

[As amended by: P.L.193-2001, §2.]

IC 13-26-5-2.5 ----- Powers and duties of regional districts: conditions for exemption from sewer connection requirement

(a) As used in this section, "septic tank soil absorption system" has the meaning set forth in IC 13-11-2-199.5.

(b) Subject to subsection (d) and except as provided in subsection (e), a property owner is exempt from the requirement to connect to a district's sewer system and to discontinue use of a septic tank soil absorption system if the following conditions are met:

- (1) The property owner's septic tank soil absorption system was installed not more than five (5) years before the district's sewer system's anticipated connection date.
- (2) The property owner's septic tank soil absorption system was new at the time of installation and was approved in writing by the local health department.
- (3) The property owner, at the property owner's own expense, obtains and provides to the district a certification from the local health department or the department's designee that the septic tank soil absorption system is functioning satisfactorily. If the local health department or the department's designee denies the issuance of a certificate to the property owner, the property owner may appeal the denial to the board of the local health department. The decision of the board is final and binding.
- (4) The property owner provides the district with:
 - (A) the written notification of potential qualification for the exemption described in subsection (g); and
 - (B) the certification described in subdivision (3); within the time limits set forth in subsection (g).

(c) If a property owner, within the time allowed under subsection (g), notifies a district in writing that the property owner qualifies for the exemption under this section, the district shall, until the property owner's eligibility for an exemption under this section is determined, suspend the requirement that the property owner discontinue use of a septic tank soil absorption system and connect to the district's sewer system.

(d) A property owner who qualifies for the exemption provided under this section may not be required to connect to the district's sewer system for a period of three (3) years beginning on the date the district's sewer system's anticipated connection date. If ownership of the property passes from the owner who qualified for the exemption to another person during the exemption period, the exemption does not apply to the subsequent owner of the property.

(e) The district may require a property owner who qualifies for the exemption under this section to discontinue use of a septic tank soil absorption system and connect to the district's sewer system if the district credits the unamortized portion of the original cost of the property owner's septic tank soil absorption system against the debt service portion of the customer's monthly bill. The amount that the district must credit under this subsection is determined in STEP TWO of the following formula:

STEP ONE: Multiply the original cost of the property owner's septic tank soil absorption system by a fraction, the numerator of which is ninety-six (96) months minus the

age in months of the property owner's septic system, and the denominator of which is ninety-six (96) months.

STEP TWO: Determine the lesser of four thousand eight hundred dollars (\$4,800) or the result of STEP ONE.

The district shall apportion the total credit amount as determined in STEP TWO against the debt service portion of the property owner's monthly bill over a period to be determined by the district, but not to exceed twenty (20) years, or two hundred forty (240) months.

(f) A district that has filed plans with the department to create or expand a sewage district shall, within ten (10) days after filing the plans, provide written notice to affected property owners:

- (1) that the property owner may be required to discontinue the use of a septic tank soil absorption system;
 - (2) that the property owner may qualify for an exemption from the requirement to discontinue the use of the septic tank soil absorption system; and
 - (3) of the procedures to claim an exemption.
- (g) To qualify for an exemption under this section, a property owner must:
- (1) within sixty (60) days after the date of the written notice given to the property owner under subsection (f), notify the district in writing that the property owner qualifies for the exemption under this section; and
 - (2) within sixty (60) days after the district receives the written notice provided under subdivision (1), provide the district with the certification required under subsection (b)(3).

[As added by: P.L.193-2001, §3.]

IC 13-26-5-3 ----- Powers and duties of regional districts: rules, resolutions and ordinances

(a) The board may by rules and resolutions provide the following:

- (1) The procedure for the board's actions.
- (2) The manner of selection of the board's president, treasurer, and secretary and other officers or employees of the district, including the titles, terms of office, compensation, duties, number, and qualifications.
- (3) Any other lawful subject necessary to the operation of the district and the exercise of the power granted.

(b) The board must adopt an ordinance by a majority vote to take action of a legislative nature. Proposed ordinances may be read by title only unless a trustee requests a reading in full.

(c) A majority of the board or the officers of the board or employees of the district that are authorized by the board may take action of an administrative or executive nature.

[As added by: P.L.1-1996, §16.]

IC 13-26-5-4 ----- Powers and duties of regional districts: authorized rulemaking

(a) The board may adopt and enforce rules for the following purposes:

- (1) To accomplish the purpose of a district.
- (2) To protect the works, improvements, and properties, both real and personal, that the district owns.
- (3) To secure the best results from the construction, operation, and maintenance of works, improvements, and properties.
- (4) To prevent damage by the misuse of the works, improvements, or properties by:
 - (A) the pollution or misuse of the waters in the district or of the sewerage system; or
 - (B) the improper disposal of solid waste.

(b) The board may adopt and enforce rules under subsection (a) that are necessary and advisable to do the following:

- (1) Protect and preserve the works, improvements, and properties owned or controlled by the district, prescribe the manner of use by any person, and preserve order in and adjacent to the works.
- (2) Prescribe the manner:
 - (A) in which ditches, sewers, pipelines, or other works should be adjusted to or connected with the works of the district; and
 - (B) of waste disposal in the district.
- (3) Prescribe the permissible uses of the water supply and the manner of distribution and prevent the pollution or unnecessary waste of the water supply.
- (4) Prohibit or regulate the discharge into the sewers of the district of liquid or solid waste detrimental to the works and improvements.

(c) Rules must be:

- (1) consistent with:
 - (A) statutes; and
 - (B) the rules of the solid waste management board or the water pollution control board; and
- (2) maintained and open to inspection in the office of the district.

(d) The board may enforce by injunction or other legal remedy rules adopted under this section. The board may remove a harmful or improper construction or obstruction or may close an opening or connection made improperly or in violation of the rules. A person that willfully fails to comply with the rules is liable for damage caused by the failure and for the cost of restoring or replacing construction damaged.

[As added by: P.L.1-1996, §16.]

IC 13-26-5-5 ----- Powers and duties of regional districts: contracting

The board or an officer or employee designated by the board may contract for the following:

- (1) The purchase of supplies in accordance with IC 5-22.
- (2) Labor for a work in accordance with IC 36-1-12.

[As amended by: P.L.49-1997, §48.]

IC 13-26-5-6 ----- Powers and duties of regional districts: power of condemnation

(a) Subject to subsection (b), the board may condemn for the use of the district public or private land, easements, rights, rights-of-way, franchises, or other property within or outside the district required by the district for the accomplishment of the district's purposes according to the statutory procedure for the appropriation of land or other property taken by an eligible entity.

(b) The power of condemnation by a district under this article may not be exercised against a sewage disposal company holding a certificate of territorial authority under IC 8-1-2-89 until the expiration of twelve (12) years after the granting of the certificate of territorial authority.

[As added by: P.L.1-1996, §16.]

IC 13-26-5-7 ----- Powers and duties of regional districts: contracts to supply water or treat district sewage and solid waste

(a) Exclusive of building a sewage treatment plant, solid waste disposal or recovery system, or installing a supply of water, a district that desires to own, acquire, construct, equip, improve, enlarge, extend, operate, and maintain a works may proceed under this article if the district first contracts for:

- (1) a supply of water;
- (2) the required treatment of the sewage emanating from the district's works; or
- (3) the disposition of solid waste generated within the district.

(b) A governmental or private body owning and operating facilities for water supply, sewage, or solid waste disposal, recovery, or treatment may contract to supply water or treat all or part of the sewage and solid waste of a district. The contracts:

- (1) must be authorized by ordinance; and
- (2) are subject to approval by the department.

(c) All bonds issued under this article or IC 13-3-2 (before its repeal) by a district contracting for:

- (1) water supply;
- (2) sewage or solid waste disposal; or
- (3) recovery treatment service;

under this section are payable before the expiration date of the contract and districts may contract for the term of the bonds, including a term or terms beyond the last maturity of the bonds.

[As added by: P.L.1-1996, §16.]

IC 13-26-5-8 ----- Powers and duties of regional districts: payment of obligations

A district may make contracts or incur obligations only if the contracts or obligations are payable solely from:

- (1) the money provided under this article; or
- (2) federal, state, or other grants or contributions.

[As added by: P.L.1-1996, §16.]

IC 13-26-6. DISTRICT PLAN

IC 13-26-6-1 ----- District plan: plan contents

A district plan for the operation of the district must include:

- (1) engineering reports;
- (2) plans and specifications; and
- (3) a feasibility study in a form that the department requires.

[As added by: P.L.1-1996, §16.]

IC 13-26-6-2 ----- District plan: IDEM approval and authorization

If the department approves a district plan, the department shall authorize the district to proceed.

[As added by: P.L.1-1996, §16.]

IC 13-26-6-3 ----- District plan: IDEM disapproval

If the department disapproves a district plan, the department may recommend revisions and authorize the district to proceed with a revised plan.

[As added by: P.L.1-1996, §16.]

IC 13-26-6-4 ----- District plan: dissolution of district

If:

- (1) the department determines that the project or operation of the district is not economically feasible, fair, or reasonable; or
- (2) the district fails to file a plan for the operation of the district within the time prescribed by the department;

the department may declare the district dissolved and enter an order for the distribution of all assets owned by the district after the payment of liabilities.

[As added by: P.L.1-1996, §16.]

IC 13-26-7. PAYMENT OF DISTRICT EXPENSES

IC 13-26-7-1 ----- Payment of district expenses: financial records

Each district must keep proper records showing the district's finances.

[As added by: P.L.1-1996, §16.]

IC 13-26-7-2 ----- Payment of district expenses: advance funding

A local, state, or federal agency or person may advance or give a district money to be used by the district for the following purposes:

- (1) The preparation of a plan for the operation of the district.
- (2) Other purposes of the district until the district is in receipt of revenue from its operations or proceeds from the sale of bonds.

[As added by: P.L.1-1996, §16.]

IC 13-26-7-3 ----- Payment of district expenses: repayment of advance from revenues

When a district receives revenue for its operations or proceeds from the sale of bonds, the district shall repay any money advanced to the advancing agency in the manner agreed.

[As added by: P.L.1-1996, §16.]

IC 13-26-7-4 ----- Payment of district expenses: interest of entity in assets of dissolved district

If the commissioner orders a district dissolved as permitted in IC 13-26-6-4, the interest an entity has in the assets of the district is limited to those assets remaining after the payment of all other liabilities of the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-8. ADDITION OF TERRITORY TO REGIONAL DISTRICTS

IC 13-26-8-1 ----- Addition of territory to regional districts: filing by eligible entity

After the establishment of a district, an eligible entity whose territory is not wholly included within the district may file an application with the district setting forth the following:

- (1) A general description of the territory the eligible entity desires to have included in the district.
- (2) The necessity for the inclusion of the territory in the district.
- (3) That inclusion of the territory in the district will be conducive to the public health, safety, convenience, or welfare.
- (4) That it will be practical and feasible for the territory to be included in the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-8-2 ----- Addition of territory to regional districts: inclusion by board approval

If an application is approved by a majority of the board, the territory described in the application becomes part of the district. The district shall then notify the department of the inclusion of the additional territory in the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-8-3 ----- Addition of territory to regional districts: failure of board approval; petition to IDEM

(a) If an application fails to receive the approval of a majority of the board not later than sixty (60) days after the filing of the application with the district, the entity filing the application may file a petition with the department as described in IC 13-26-2 requesting the order of the department to include the territory described in the application within the district.

(b) Upon the filing of a petition, the department shall proceed in the same manner that is set forth in IC 13-26-2, IC 13-26-4, IC 13-26-6, and IC 13-26-7.

[As added by: P.L.1-1996, §16.]

IC 13-26-9. TERRITORIAL AUTHORITY OF SEWAGE DISPOSAL COMPANIES**IC 13-26-9-1 ----- Territorial authority of sewage disposal companies: activities not affected**

This article does not limit the following:

- (1) The formation and operation under IC 8-1-2-89 of a sewage disposal company to provide sewage disposal service to a territory lying in the territory of a district.
- (2) The granting of a certificate of territorial authority under IC 8-1-2-89 encompassing a part of the territory within the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-9-2 ----- Territorial authority of sewage disposal companies: conditions

The granting of a certificate of territorial authority to a sewage disposal company under IC 8-1-2-89 for a territory lying in the territory of a district may be conditioned upon the following requirements:

- (1) That the sewage disposal company connect the company's collection system to the collection system of a district when the district has extended to within three hundred (300) feet of the territorial area of the sewage disposal company a system sufficient to provide reasonable and adequate service to the territorial area.
- (2) That the sewage disposal company contribute the company's collection system to the district instead of all connection charges that could otherwise be imposed under this article upon:
 - (A) the sewage disposal company; or
 - (B) those parcels and lots served by the collection system of the sewage disposal company that have been contributed by the company to the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-9-3 ----- Territorial authority of sewage disposal companies: certain companies exempt

A sewage disposal company that is subject to the jurisdiction of the Indiana utility regulatory commission under IC 8-1-2-89, and all of the territory lying in the area to which the company holds a certificate of territorial authority, is exempt from all ordinances and rules adopted by the board, except those ordinances and rules pertaining to maintenance and operation, until:

- (1) the connection is made to the sewerage system of the district; and
- (2) the district begins to provide service within the area covered by the certificate of territorial authority.

[As added by: P.L.1-1996, §16.]

IC 13-26-10. BONDS**IC 13-26-10-1 ----- Bonds: revenue bonds authorized**

A district may obtain money for the payment of the costs of the works or an improvement, enlargement, or extension of the works by the issuance of revenue bonds of the district. The principal and interest of the revenue bonds must be paid solely from the net revenues of the works.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-2 ----- Bonds: obligations issued to federal government

A district obtaining a loan from the federal government or an agency of the federal government may issue obligations under this article to the federal government or agency to evidence the indebtedness without advertising for or receiving bids. The obligations:

- (1) are payable solely from the net revenues of the works; and
- (2) may be made of equal priority or subordinate to other revenue bonds issued or to be issued under this article or IC 13-3-2 (before its repeal).

[As added by: P.L.1-1996, §16.]

IC 13-26-10-3 ----- Bonds: form of revenue bonds

Revenue bonds may:

- (1) bear interest, at a rate or rates not exceeding the maximum determined by the board, that is payable annually or at shorter intervals;
- (2) mature at a time or times to be determined by ordinance; and
- (3) be made redeemable before maturity at the option of the district, to be exercised by the board, at not more than the par value and a premium not exceeding five percent (5%) under terms and conditions that are fixed by the ordinance authorizing the issuance of the bonds.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-4 ----- Bonds: principal and interest

The principal and interest of revenue bonds may be made payable in any lawful medium. The ordinance must do the following:

- (1) Determine the form of the bonds, including the interest coupons, if any, to be attached.
- (2) Fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which may be any bank or trust company within or outside Indiana.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-5 ----- Bonds: conditions

(a) The revenue bonds must contain a statement on the face of the bonds that the district is not obligated to pay the bonds or the interest on the bonds except from the special fund provided from the net revenues of the works.

- (b) All bonds are negotiable instruments.
- (c) The bonds and interest are exempt from all state, county, and municipal taxation.
- (d) The bonds may be registered in the name of the owner:
 - (1) as to principal alone; or
 - (2) as to both principal and interest.

Fully registered bonds may be made convertible to coupon bonds at the option of the registered owner.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-6 ----- Bonds: execution

The:

- (1) president of the board shall execute; and
- (2) secretary of the board shall attest;

the bonds and coupons. The coupons must bear facsimile signature.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-7 ----- Bonds: sale of bonds

(a) Subject to subsection (b), the treasurer of the district shall sell the revenue bonds in a manner and at a price that is determined to be in the best interests of the district.

(b) If the bonds are sold at public sale, the bonds shall be sold in accordance with IC 5-1-11 as IC 5-1-11 applies to counties.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-8 ----- Bonds: surplus or deficit in revenue

(a) A surplus of revenue bond proceeds over the cost of the works shall be paid into the sinking fund provided by this article.

(b) If the proceeds of the bonds, by error of calculation or otherwise, are less than the cost of the works, additional bonds may in the same manner be issued to provide the amount of the deficit. Unless otherwise provided in:

- (1) the ordinance authorizing the issuance of the bonds first issued; or
- (2) the trust indenture authorized by this article or IC 13-3-2 (before its repeal);

the additional bonds are considered to be of the same issue and are entitled to payment from the same fund, without preference or priority of the bonds first issued.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-9 ----- Bonds: temporary revenue bonds

Before the preparation of the definite revenue bonds, temporary revenue bonds under the same restrictions may be issued with or without coupons, exchangeable for definite revenue bonds upon the issuance of the latter.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-10 ----- Bonds: fund to finance construction

The fund to finance the construction of any of the self-liquidating works authorized by this article may be obtained from a federal or state agency.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-11 ----- Bonds: action to contest validity

An action to contest the validity of bonds issued under this article or IC 13-3-2 (before its repeal) must be brought not later than ten (10) days after the advertised sale date of the bonds.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-12 ----- Bonds: additional bonds

Subject to an ordinance or trust indenture pertaining to outstanding bonds, additional bonds payable from the revenues of the works may be authorized and issued in accordance with this article for the purpose of improving, enlarging, or extending works acquired or constructed under this article or IC 13-3-2 (before its repeal).

[As added by: P.L.1-1996, §16.]

IC 13-26-10-13 ----- Bonds: trust indenture

The board may secure the revenue bonds by a trust indenture by and between the district and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside Indiana. However, a trust indenture may not convey or mortgage all or any part of the works.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-14 ----- Bonds: provisions of trust indenture

The ordinance authorizing the revenue bonds and fixing the details of the revenue bonds may provide that the trust indenture contain reasonable and lawful provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the district and the board in relation to the following:

- (1) The construction or acquisition of the works.
- (2) The improvement, operation, repair, and maintenance of the works.
- (3) The issuance of bonds, including the custody, safeguarding, and application of all money.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-15 ----- Bonds: security given by contractor

The ordinance may also provide that the works shall be contracted for, constructed, and paid for under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, successors, assigns, or nominees. The original bond purchasers, successors, assigns, or nominees may be given the right to require that the security given by:

- (1) contractors; and
- (2) any depository of the proceeds of bonds or revenues of the works or other money pertaining to the works;

be satisfactory to the purchasers, successors, assigns, or nominees.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-16 ----- Bonds: rights and remedies of the bondholders

The trust indenture may set forth the rights and remedies of the bondholders or trustee, restricting the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-17 ----- Bonds: provisions for payment bond proceeds and revenues

Unless this article otherwise provides, the board may provide by ordinance or in the trust indenture for the payment of:

- (1) the proceeds of the sale of the bonds; and
- (2) the revenues of the works;

to the officer, board, or depository that the board determines for the custody of the money and for the method of disbursement, with safeguards and restrictions that the board determines.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-18 ----- Bonds: sinking fund

(a) At or before the time of issuance of the revenue bonds, the board shall by ordinance create a sinking fund for the payment of the following:

- (1) The bonds.
- (2) The interest on the bonds.

- (3) The charges of banks or trust companies for making payment of the bonds or interest.

(b) The board shall set aside and pledge the net revenues of the works remaining after the payment of the reasonable expense of operation, repair, and maintenance of the works for payment of the:

- (1) principal of and interest on all bonds payable from the revenues of the works, to the extent necessary for that purpose; and
- (2) necessary fiscal agency charges for paying the principal and interest of the bonds.

(c) The ordinance may also provide for the accumulation of reasonable reserves in the sinking fund:

- (1) as a margin for safety and a protection against default; and
- (2) for the payment of premiums upon bonds retired by call or purchase as provided by this article.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-19 ----- Bonds: protection and enforcement of rights by civil action

(a) The holder of revenue bonds or attached coupons and the trustee, if any, except to the extent the rights given may be restricted by the ordinance authorizing issuance of the bonds or by the trust indenture, may, by civil action, protect and enforce rights granted:

- (1) by this article or IC 13-3-2 (before its repeal); or
- (2) under the ordinance or trust indenture;

to be performed by the district issuing the bonds or by the board or any officer, including the making and collecting of reasonable and sufficient charges and rates for services provided by the works.

(b) If there is failure to pay the principal or interest on any of the revenue bonds on the date named for payment, and upon application by a bondholder or a trustee, any court having jurisdiction to appoint receivers shall appoint a receiver to administer the works on behalf of the district and the bondholders or trustee. A receiver may do the following:

- (1) Charge and collect rates sufficient to provide for the payment of the expenses of operation, repair, and maintenance.
- (2) Pay any revenue bonds and interest outstanding.
- (3) Apply the revenues in conformity with this article and the ordinance or trust indenture.

[As added by: P.L.1-1996, §16.]

IC 13-26-11. RATES AND CHARGES

IC 13-26-11-1 ----- Rates and charges: basis for waterworks

The rates and charges for a waterworks may be determined based on the following:

- (1) A flat charge for each connection.
- (2) The amount of water consumed.
- (3) The size of the meter or connection.
- (4) Whether the property served has been or will be required to pay separately for the cost of any of the facilities of the works.
- (5) A combination of these or other factors that the board determines is necessary to establish just and equitable rates and charges.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-2 ----- Rates and charges: basis for sewage works

The rates or charges for a sewage works may be determined based on the following:

- (1) A flat charge for each connection.

- (2) The amount of water used on the premises.
- (3) The number and size of water outlets on the premises.
- (4) The amount, strength, or character of sewage discharged into the sewers.
- (5) The size of sewer connections.
- (6) Whether the property served has been or will be required to pay separately for the cost of any of the facilities of the works.
- (7) A combination of these or other factors that the board determines is necessary to establish just and equitable rates or charges.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-3 ----- Rates and charges: basis for solid waste disposal and recovery systems

The rates or charges for solid waste disposal and recovery systems may be determined based on the following:

- (1) A flat charge for each residence or building in use in the district.
- (2) On the weight of the refuse received.
- (3) On the hazardous character of the waste received.
- (4) On a combination of the weight and hazardous character of the waste received.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-4 ----- Rates and charges: discretion in

The rates and charges for services of a water, sewer, or solid waste disposal or recovery system do not have to be uniform throughout the district or for all users. The board may exercise reasonable discretion in:

- (1) adopting different schedules of rates and charges; or
- (2) making classifications in schedules of rates and charges:
 - (A) based upon variations in the costs of furnishing the services, including capital expenditures required, to various classes of users or to various locations in the district; or
 - (B) where there are variations in the number of users in various locations in the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-5 ----- Rates and charges: billing and collection

A district may bill and collect rates and charges for the services to be provided after the contract for construction of a sewage works has been let and actual work commenced in an amount sufficient to meet the interest on the revenue bonds and other expenses payable before the completion of the works.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-6 ----- Rates and charges: property benefiting from sewage works

Unless the board finds and directs otherwise, the sewage works are considered to benefit every:

- (1) lot;
- (2) parcel of land; or
- (3) building;

connected or to be connected under the terms of an ordinance requiring connections with the sewer system of the district as a result of construction work under the contract. The rates or charges shall be billed and collected accordingly.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-7 ----- Rates and charges: charge for connections

(a) If a district constructs sewers or water mains as a part of the construction of the works that are suitable for use as a local or lateral sewer or main by abutting or adjoining property, the district may charge for the connection on the basis of the pro rata cost of construction of a local or lateral sewer or water main sufficient to serve the property.

(b) Each property owner must agree to pay for the connection in making an application for service. If payment is not made as agreed, the payment constitutes a lien on the property for which the connection is made.

(c) The proceeds of the connection charges may be handled as:

(1) net revenues of the works; or

(2) payments toward the cost of construction or future improvements.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-8 ----- Rates and charges: charges for the use of and the service provided by a works

(a) The board shall, by ordinance, establish just and equitable rates or charges for the use of and the service provided by a works. The rates or charges are payable by the owner of each lot, parcel of land, or building that:

(1) is connected with and uses a works; or

(2) in any way uses or is served by a works.

(b) The board may periodically change and readjust the rates or charges as provided in this article.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-9 ----- Rates and charges: just and equitable rates and charges

(a) Just and equitable rates and charges are those that produce sufficient revenue to:

(1) pay all expenses incident to the operation of the works, including maintenance cost, operating charges, upkeep, repairs, and interest charges on bonds or other obligations;

(2) provide the sinking fund for the liquidation of bonds or other evidence of indebtedness and reserves against default in the payment of interest and principal of bonds; and

(3) provide adequate money to be used as working capital, as well as money for making improvements, additions, extensions, and replacements.

(b) Rates and charges too low to meet the financial requirements described in subsection (a) are unlawful. The initial rates and charges established after notice and hearing under this article are prima facie just and equitable.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-10 ----- Rates and charges: revenue of the works

Revenue collected under sections 8 through 14 of this chapter is revenue of the works.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-11 ----- Rates and charges: initial rates or charges

The initial rates or charges may be established only after a public hearing at which all:

(1) the users of the works and owners of property served or to be served; and

(2) others interested;

have an opportunity to be heard concerning the proposed rates or charges.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-12 ----- Rates and charges: notice of hearing on

After introduction of the ordinance initially fixing rates or charges but before the ordinance is finally adopted, notice of the hearing setting forth the proposed schedule of the rates or charges must be given by publication one (1) time each week for two (2) weeks in a newspaper of general circulation in each of the counties with territory in the district. The last publication must be at least seven (7) days before the date fixed in the notice for the hearing. The hearing may be adjourned as necessary.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-13 ----- Rates and charges: ordinance establishing

(a) The ordinance establishing the initial rates or charges, either as:

- (1) originally introduced; or
- (2) modified and amended;

shall be passed and put into effect after the hearing.

(b) A copy of the schedule of the rates and charges established must be:

- (1) kept on file in the office of the district; and
- (2) open to public inspection.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-14 ----- Rates and charges: extending to cover additional premises

(a) The rates or charges established for a class of users of property served shall be extended to cover any additional premises served after the rates or charges are established that are in the same class, without the necessity of hearing or notice.

(b) A change or readjustment of the rates or charges may be made in the same manner as the rates or charges were originally established.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-15 ----- Rates and charges:

(a) A district authority is established in each regional sewage district established under IC 13-26.

(b) The district authority of a regional sewage district consists of the following:

- (1) In the case of a regional sewage district located in one (1) county:
 - (A) except as provided in clause (B), the county executive of that county; or
 - (B) if the members of the county executive are trustees of the regional sewage district, the members of the county fiscal body.
- (2) In the case of a regional sewage district located in more than one (1) county, one (1) county executive member, appointed by that member's county executive, from each county in which the district is located. However, a person who serves on the board of trustees of a district may not be a member of the district authority.

(c) If a district adopts an ordinance increasing sewer rates and charges at a rate that is greater than five percent (5%) per year, as calculated from the rates and charges in effect from the date of the district's last rate increase before January 1, 2001, fifty (50) freeholders of the district or ten percent (10%) of the district's freeholders, whichever is fewer, may file a written petition objecting to the rates and charges of the district. A petition filed under this subsection must:

- (1) contain the name and address of each petitioner;
- (2) be filed with a member of the district authority, in the county where at least one (1) petitioner resides, not later than thirty (30) days after the district adopts the ordinance establishing the rates and charges; and
- (3) set forth the grounds for the freeholder's objection.

(d) If a petition meeting the requirements of subsection (b) is filed, the district authority shall investigate and conduct a public hearing on the petition. If more than one (1) petition concerning a particular increase in rates and charges is filed, the district authority shall consider the objections set forth in all the petitions at the same public hearing.

(e) The district authority shall set the matter for public hearing not less than ten (10) business days but not later than twenty (20) business days after the petition has been filed. The district authority shall send notice of the hearing by certified mail to the district and the petitioner and publish the notice of the hearing in a newspaper of general circulation in each county in the district.

(f) Upon the date fixed in the notice, the district authority shall hear the evidence produced and determine whether the increased sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter. The district authority, by a majority vote, shall:

- (1) sustain the ordinance establishing the rates and charges;
- (2) sustain the petition; or
- (3) make any other ruling appropriate in the matter.

(g) The order of the district authority may be appealed by the district or a petitioner to the circuit court of the county in which the district is located. The court shall try the appeal without a jury and shall determine one (1) or both of the following:

- (1) Whether the board of trustees of the district, in adopting the ordinance increasing sewer rates and charges, followed the procedure required by this chapter.
- (2) Whether the increased sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter.

Either party may appeal the circuit court's decision in the same manner that other civil cases may be appealed.

[As added by: P.L.193-2001, §4.]

IC 13-26-12. LIENS FOR RATES OR CHARGES

IC 13-26-12-1 ----- Liens for rates or charges: rates are liens

The rates made, assessed, or established under this article against:

- (1) a lot;
- (2) a parcel of land; or
- (3) a building;

that is connected with and uses the works of the district are a lien against the lot, parcel of land, or building.

[As added by: P.L.1-1996, §16.]

IC 13-26-12-2 ----- Liens for rates or charges: attachment; precedence

Except as provided in sections 5 and 6 of this chapter, a lien attaches at the time of the recording of the list in the county recorder's office as provided in IC 13-26-13. The lien:

- (1) is superior to and takes precedence over all other liens except the lien for taxes; and
- (2) shall be enforced under this article.

[As added by: P.L.1-1996, §16.]

IC 13-26-12-3 ----- Liens for rates or charges: delinquency; penalty; attorney fees

If rates or charges are not paid within the time fixed by the board, the rates or charges become delinquent and a penalty of ten percent (10%) of the amount of the rates or charges attaches to the rates or charges. The board may recover:

- (1) the amount due;
- (2) the penalty; and
- (3) a reasonable attorney's fee;

in a civil action in the name of the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-12-4 ----- Liens for rates or charges: collection

The rates or charges, together with the penalty, are collectible in the manner provided by this article.

[As added by: P.L.1-1996, §16.]

IC 13-26-12-5 ----- Liens for rates or charges: enforcement against subsequent owner

(a) A rate or charge is not enforceable as a lien against a subsequent owner of property unless the lien for the rate or charge was recorded with the county recorder before the conveyance to the subsequent owner.

(b) If the property is conveyed before the lien can be filed, the officer of the district who is charged with the collection of the rate or charge shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not less than fifteen (15) days after the date of the notice. If payment is not received not later than one hundred eighty (180) days after the date of the notice, the amount due may be expensed as a bad debt loss.

[As added by: P.L.1-1996, §16.]

IC 13-26-12-6 ----- Liens for rates or charges: notification of owner

(a) This section applies whenever the owner of the property has notified the general office of the district by certified mail with return receipt requested of the address to which the owner's notice is to be sent.

(b) A lien does not attach against a lot, parcel of land, or building occupied by someone other than the owner unless the officer of the district who is charged with the collection of rates or charges notifies the owner of the property after the rates or charges have become sixty (60) days delinquent.

[As added by: P.L.1-1996, §16.]

IC 13-26-12-7 ----- Liens for rates or charges: release of lien

(a) The district shall release:

- (1) liens filed with the county recorder after the recorded date of conveyance of the property; and
- (2) delinquent fees incurred by the seller;

upon receipt of a verified demand in writing from the purchaser.

(b) The demand must state the following:

- (1) That the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner.
- (2) That the purchaser has not been paid by the seller for the delinquent fees.

[As added by: P.L.1-1996, §16.]

IC 13-26-13. ENFORCEMENT OF DELINQUENCIES**IC 13-26-13-1 ----- Enforcement of delinquencies: fees or penalties due and unpaid for at least 90 days**

This chapter applies only to fees or penalties that have been due and unpaid for at least ninety (90) days.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-2 ----- Enforcement of delinquencies: enforcement of payments; preparation of list

The officer of the district who is charged with the collection of the rates or charges shall enforce payment of the rates or charges. The officer shall, not more than two (2) times in a year, prepare a list of the delinquent rates or charges, including the amount of the penalty, that are enforceable under this chapter. The list must include the following:

- (1) The name of each owner of each lot or parcel of real property on which the rates or charges have become delinquent.
- (2) The description of the premises as shown by the records of the office of the county auditor.
- (3) The amount of the rates or charges, together with the amount of the penalty.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-3 ----- Enforcement of delinquencies: recording of list

(a) The officer shall record a copy of the list in the office of the county recorder.

(b) The county recorder shall charge a fee for recording the list in accordance with the fee schedule established in IC 36-2-7-10.

(c) After recording the list, the officer shall mail to each property owner on the list a notice stating that a lien against the owner's property has been recorded.

(d) This subsection applies only to a county that does not contain a consolidated city. A service charge of five dollars (\$5), which is in addition to the recording fee charged under this section and section 6 of this chapter, shall be added to each delinquent rate or charge that is recorded.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-4 ----- Enforcement of delinquencies: Marion county

(a) This section applies only to a county containing a consolidated city.

(b) Using the lists prepared and recorded under sections 2 and 3 of this chapter, the officer shall certify to the county auditor a list of the liens that remain unpaid according to the following schedule:

- (1) Liens recorded on or after August 1 of the preceding year and before February 1 of the current year shall be certified before March 1 of each year for collection in May of the same year.
- (2) Liens recorded on or after February 1 of the current year and before August 1 of the current year shall be certified before September 1 of each year for collection in November of the same year.

(c) The county and the officers and employees of the county are not liable for any material error in the information on the list.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-5 ----- Enforcement of delinquencies: other counties

(a) This section only applies to a county that does not contain a consolidated city.

(b) Using the lists prepared and recorded under sections 2 and 3 of this chapter:

- (1) after April 1 of the preceding year; and

(2) before April 1 of the current year;

the officer shall before June 1 of each year certify to the county auditor a list of the liens that remain unpaid for collection in the next November.

(c) The county and the officers and employees of the county are not liable for any material error in the information on this list.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-6 ----- Enforcement of delinquencies: release of recorded lien

(a) The officer shall release a recorded lien when the:

- (1) delinquent rates or charges;
- (2) penalties;
- (3) service charges; and
- (4) recording fees;

have been fully paid.

(b) The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-7 ----- Enforcement of delinquencies: certification fee and other charges

(a) This subsection applies to a county that does not contain a consolidated city. On receipt of the list under section 5 of this chapter, the county auditor shall add a fifteen dollar (\$15) certification fee for each lot or parcel of real property on which rates or charges are delinquent. The certification fee is in addition to all other fees and charges. The county auditor shall immediately enter on the tax duplicate for the municipality the:

- (1) delinquent rates or charges;
- (2) penalties;
- (3) service charges;
- (4) recording fees; and
- (5) certification fees;

that are due not later than the due date of the next November installment of property taxes.

(b) This subsection applies to a county having a consolidated city. On receipt of the list under section 4 of this chapter, the county auditor shall enter on the tax duplicate the:

- (1) delinquent fees;
- (2) penalties;
- (3) service charges; and
- (4) recording fees;

that are due not later than the due date of the next installment of property taxes.

(c) The county treasurer shall include any unpaid charges for the:

- (1) delinquent rate or charge;
- (2) penalty;
- (3) service charge;
- (4) recording fee; and
- (5) certification fee;

to each owner of each lot or parcel of property at the time the next cycle's property tax installment is billed.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-8 ----- Enforcement of delinquencies: after June 1 of each year

- (a) This section does not apply to a county containing a consolidated city.
- (b) After June 1 of each year, the officer may not collect or accept:
 - (1) delinquent rates or charges;
 - (2) penalties;
 - (3) service charges;
 - (4) recording fees; or
 - (5) certification fees;

from property owners whose property has been certified to the county auditor.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-9 ----- Enforcement of delinquencies: collection of unpaid money by county treasurer

If a:

- (1) delinquent rate or charge;
- (2) penalty;
- (3) service charge;
- (4) recording fee; or
- (5) certification fee;

is not paid, the county treasurer shall collect the unpaid money in the same way that delinquent property taxes are collected.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-10 ----- Enforcement of delinquencies: at the time of each semiannual tax settlement

(a) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all:

- (1) rates or charges;
- (2) fees; and
- (3) penalties;

that have been collected.

(b) The county auditor shall:

- (1) deduct the service charges and certification fees collected by the county treasurer; and
- (2) pay to the officer the remaining fees and penalties due the district.

(c) The county treasurer shall:

- (1) retain the service charges and certification fees that have been collected; and
- (2) deposit the charges and fees in the county general fund.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-11 ----- Enforcement of delinquencies: unrecorded charges; removal from tax rolls

(a) This section applies to a:

- (1) rate or charge;
- (2) penalty; or
- (3) service charge;

that was not recorded before a recorded conveyance.

(b) The:

- (1) rate or charge;

- (2) penalty; or
- (3) service charge;

shall be removed from the tax roll for a purchaser who, in the manner prescribed by IC 13-26-12-7, files a verified demand with the county auditor.

[As added by: P.L.1-1996, §16.]

IC 13-26-14. FORECLOSURE OF LIENS

IC 13-26-14-1 ----- Foreclosure of liens: authorized

A district may, as an additional or alternative remedy, foreclose a lien established by this article as a means of collection of rates or charges, including the penalty on the rates or charges.

[As added by: P.L.1-1996, §16.]

IC 13-26-14-2 ----- Foreclosure of liens: amounts recoverable

(a) In all actions brought to foreclose the liens, the district is entitled to recover the following:

- (1) The amount of the rates or charges.
- (2) The penalty on the rates or charges.
- (3) A reasonable attorney's fee.

(b) The court shall order that the sale be made without relief from valuation or appraisal statutes.

[As added by: P.L.1-1996, §16.]

IC 13-26-14-3 ----- Foreclosure of liens: applicable laws

Except as otherwise provided by this article, in all actions to foreclose the liens:

- (1) the laws concerning municipal public improvement assessments; and
- (2) the rights, remedies, procedure, and relief granted the parties to the action;

apply.

[As added by: P.L.1-1996, §16.]

